

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

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THERESA H. OWENS
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ZIPHER LTD.
7 Faraday Building
Nottingham Science & Technology Park,
University Boulevard,
Nottingham NG7 2QP
United Kingdom.

and

VIDEOJET TECHNOLOGIES INC.
500 Mittel Blvd.
Wood Dale, Illinois 60191

Plaintiffs,

vs.

MARKEM Corporation
150 Congress Street,
Keene, NH 03431

Defendant.

Civil Action No. 06-C-745-S

FIRST AMENDED

COMPLAINT FOR PATENT
INFRINGEMENT

JURY DEMANDED

Plaintiffs Zipher Ltd. ("Zipher") and Videojet Technologies Inc. ("Videojet")
allege as follows:

JURISDICTION AND VENUE

1. This is an action for patent infringement arising under 35 U.S.C. §281.
This Court has subject matter jurisdiction over this matter based on 28 U.S.C. §§ 1331
and 1338(a).
2. Venue is proper in this judicial district pursuant to 28 U.S.C. §§ 1391 and
1400(b).

3. Plaintiff Zipher is a corporation existing under the laws of England, with a principal place of business located at 7 Faraday Building, Nottingham Science & Technology Park, University Boulevard, Nottingham NG7 2QP, United Kingdom.

4. Plaintiff Videojet is a Delaware corporation having a principal place of business located at 500 Mittel Blvd., Wood Dale, Illinois 60191.

5. On information and belief, defendant Markem Corporation. ("Markem") is a corporation existing under the laws of the state of New Hampshire, having its principal place of business at 150 Congress Street, Keene, NH 03431.

6. Markem imports into the United States, offers for sale, sells and/or uses in the United States thermal transfer printers including the Markem SmartDate® 5 Coder.

7. On information and belief, Markem imports into the United States, solicits sales and/or sells thermal transfer printers, including the SmartDate®5 (SD5) Coder, within this judicial district. On information and belief, Markem as part of its efforts to sell its SD5 Coder equipment in this judicial district offers to assist its customers in installing, testing, and providing training on such equipment in this judicial district and elsewhere in Wisconsin and the United States.

8. Markem has purposefully availed itself of this Court's jurisdiction by committing and continuing to commit acts of patent infringement in this judicial district, the State of Wisconsin, and elsewhere in the United States.

ZIPHER'S PATENT-IN-SUIT

9. United States Patent No. 7,150,572 ("the '572 patent"), entitled "Tape Drive And Printing Apparatus," was duly and legally issued by the United States Patent and Trademark Office on December 19, 2006.

10. Zipher has been and remains the owner by assignment of the entire right, title, and interest in the '572 patent, including the right to sue for any infringement.

11. Videojet has been granted by Zipher an exclusive license to the '572 Patent.

12. Videojet manufactures, offers for sale and sells in the U.S. thermal transfer printers developed by Zipher and covered by the '572 Patent.

Claim For Relief

INFRINGEMENT OF U.S. PATENT NO. 7,150,572

13. Zipher incorporates by reference paragraphs 1 through 12 above, as though fully set forth herein.

14. Markem has directly infringed, contributorily infringed, and/or actively induced infringement of the '572 patent – literally and/or under the doctrine of equivalents – by making, using, importing, offering for sale, and/or selling thermal transfer printers in the United States, including the SmartDate®5 Coder covered by one or more claims of the '572 patent.

15. On information and belief, Markem is offering to sell and selling SmartDate®5 printers in this judicial district to DoBoy Packaging Machinery, Inc. ("DoBoy") having a place of business at 869 South Knowles Ave., New Richmond, Wisconsin 54017. On information and belief, DoBoy includes SmartDate®5 printers in packaging equipment that is made by DoBoy in Wisconsin and offered for sale and/or sold to DoBoy end use customers in this judicial district, as well as elsewhere in Wisconsin and the United States.

16. On information and belief, Markem is also offering to sell and selling SmartDate®5 printers in Wisconsin to Matrix Packaging Machinery, Inc. ("Matrix") having a place of business at 650 Dekora Woods Blvd., Saukville, Wisconsin 53080. On information and belief, Matrix includes SmartDate®5 printers in packaging equipment that is made by Matrix in Wisconsin and offered for sale and/or sold to Matrix end use

customers in this judicial district, as well as elsewhere in Wisconsin and the United States.

17. On information and belief, Markem's infringement of the '572 patent will be deliberate and willful, and such infringement will continue unless Markem is preliminarily and permanently enjoined by this Court.

18. As a consequence of Markem's infringement of the '572 patent, Zipher and Videojet have been damaged and will continue to sustain damages by such acts in an amount to be determined at trial and will continue to suffer irreparable loss and injury.

JURY DEMAND

19. Zipher and Videojet demand a trial by jury of all issues triable as of right by a jury in this action.

PRAYER FOR JUDGMENT AND RELIEF

WHEREFORE, Zipher and Videojet request judgment as follows:

(1) Pursuant to 35 U.S.C. § 271, a determination that Markem and those acting in privity with Markem have directly infringed, contributorily infringed, and/or actively induced infringement of Zipher's U.S. Patent No. 7,150,572 – literally and/or under the doctrine of equivalents – by making, using, importing, offering for sale, and/or selling in the United States the infringing thermal transfer printers, including the SmartDate®5 Coder;

(2) Pursuant to 35 U.S.C. § 283, an order that Markem and those acting in privity with Markem be preliminarily and permanently enjoined from infringing Zipher's U.S. Patent No. 7,150,572 through the manufacture, use, import, offer for sale, and/or sale in the United States of the infringing thermal transfer printers, including the SmartDate®5 Coder;

(3) Pursuant to 35 U.S.C. § 284, an award of damages adequate to fully compensate Zipher and Videojet for Markem's infringement of Patent No. 7,150,572, but


in no event less than a reasonable royalty, together with prejudgment interest, costs and disbursements as fixed by the Court;

(4) Pursuant to 35 U.S.C. § 284, an award increasing damages up to three times the amount found or assessed for infringement of U.S. Patent No. 7,150,572 by Markem due to the willful and deliberate nature of the infringement;

(5) Pursuant to 35 U.S.C. § 285, a determination that this is an exceptional case and an assessment of reasonable attorneys' fees; and

(6) Such other and further relief as the Court deems equitable and just.

Dated: February 14, 2007.

By 
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